

MINUTES

EAU CLAIRE CITY COUNCIL LEGISLATIVE MEETING

Tuesday, May 31, 2011

City Council Chamber

5:30 p.m.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Council President Kincaid called the meeting to order. The following members were present: Council Members Larry Balow, David Duax, Kerry Kincaid, David Klinkhammer, Kathy Mitchell, Mark Olson, Jackie Pavelski, Bob Von Haden, Thomas Vue, Dana Wachs and Andrew Werthmann.

FENWICK AVENUE UNDERPASS

The City Council considered a resolution regarding the construction of an underpass on Hastings Way at Fenwick Avenue. Council Members Klinkhammer and Wachs had requested the resolution be considered again, based on a substantial change in property acquisition costs related to the project. Council Member Olson raised a point of order, questioning if there was a change between the resolution on the current agenda and the resolution the council considered at its last meeting. Council President Kincaid denied the point of order ruling there was a substantial change between the resolution on the current agenda and the resolution the Council considered at its last meeting. Kincaid said the reduction in the land acquisition price was a substantial change. Regis Catholic Schools had reduced the cost of land acquisition on the west side of Hastings Way by \$30,000; Consumer Cooperative Association (Mega) had reduced the cost of land acquisition on the east side by \$94,000. Thereupon a motion was offered by Council Member Wachs and seconded by Council Member Klinkhammer to "to adopt said resolution". Thereupon a motion was offered by Council Member Duax and seconded by Council Member Balow "to amend said resolution by adding the following two paragraphs to the resolution:

1. The design of the underpass at Fenwick Avenue shall be modified to make said entrances similar to those under Farwell Street next to the Eau Claire River, and under Hastings Way south of Birch Street, in order to reduce the need for landscaping at either entrance, thus saving capital and operational costs.
2. The City Manager and City Clerk are hereby authorized and directed to enter into written legal agreements with Regis Catholic Schools and /or the Catholic Diocese of La Crosse, and with Eau Claire Consumer Cooperative Association (Mega) regarding the financial terms negotiated with each party for the acquisition of land to be purchased by the city for the construction of the aforesaid underpass at Fenwick Avenue. Each of said agreements shall also include adequate liability protections for the City for any unforeseen construction cost issues due to failure to disclose conditions of or restrictions on the property in question."

Council Member Mitchell requested a division of the question to allow a separate vote on each item in the amendment. The Council discussed and then voted on Item Number One regarding the landscaping. Said motion failed on the following vote: Aye: Council Members Balow, Duax, Von Haden and Vue. Nay: Council Members Kincaid, Klinkhammer, Mitchell, Olson, Pavelski, Wachs and Werthmann. The Council then took up the second item in the motion.

After discussion, the mover and seconder agreed to re-word the last sentence as follows:

‘Each agreement shall also include adequate liability protections through a warranty deed and environmental indemnities.’ The Council voted on Item Number Two as re-worded. Said amendment was adopted by the following vote: Aye: Council Members Balow, Duax, Kincaid, Klinkhammer, Mitchell, Pavelski, Von Haden, Vue, Wachs, and Werthmann. Nay: Council Member Olson. Thereupon a motion was offered by Council Member Duax and seconded by Council Member Pavelski “to include the following wording indicating the land acquisition and associated costs: ‘The City Manager is authorized to obtain the necessary land at the price of \$156,000 to Consumer Cooperative Association / Mega and \$201,400 to Regis Catholic Schools’.” Said motion to amend was adopted by unanimous vote. Thereupon a motion was offered by Council Member Von Haden “to also include in the resolution the amount of potential revenue lost by the City in the form of reduced special assessments from the property owners due to the City purchase of land and the loss of future tax revenue.” Said motion died for lack of a second. Council then voted on resolution as amended. Said resolution was adopted by unanimous vote.

ADJOURNMENT

A motion was offered by Council Member Werthmann and seconded by Council Member Olson “that this meeting does now adjourn.” Said motion passed by unanimous voice vote.

Adjournment: May 31, 2011

Time: 6:42 p.m.

Kerry J. S. Kincaid, President

ATTEST:

Donna A. Austad, City Clerk